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CABLE ADDRESS
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February 3, 1976

OGC Has Reviewed

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[redacted] gave me the draft legislation which you kindly forwarded through him. On reviewing it I had a few additional thoughts and have taken the liberty of trying my hand at a revision. I enclose a copy for whatever use it may be.

Sincerely,

A handwritten signature in cursive script.

Thaddeus Holt

Enclosure

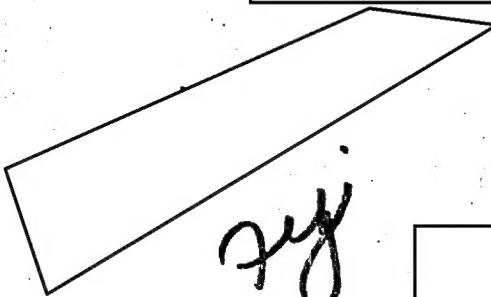
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A BILL

To amend the National Security Act of 1947, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 102 of the National Security Act of 1947, as amended (Section 403 of Title 50, United States Code) is further amended by adding the following new subsection (g):

(g) In the interests of the security of the foreign intelligence activities of the United States, and in order further to implement the proviso of section 102(d)(3) of this Act that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure--

(1) Whoever, within or without the United States, being or having been an officer or employee (including a special employee) of the United States or of any corporation in which the United States or any department or agency thereof has a proprietary interest; or a member of the Armed Services of the United States; or a contractor of the United

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States Government; or a party or counsel to any party to any proceedings under this subsection; or an employee or independent contractor of any of the foregoing, who in the course of such relationship becomes possessed of Designated Intelligence Information as hereinafter defined (whether such possession be duly authorized or not), knowingly communicates such information to a person not authorized to receive it, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

(2) Whoever, within or without the United States, being or having been in duly authorized possession or control of Designated Intelligence Information, knowingly communicates such information to a person not authorized to receive it, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

(3) For the purposes of this subsection:

(A) The term "Designated Intelligence Information" means information concerning, or from which information can be deduced concerning --

(i) methods of collecting foreign

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(ii) sources of foreign intelligence, whether human, technical, or other; or

(iii) methods and techniques of analysis and evaluation of foreign intelligence, which pursuant to authority granted by statute or directive of the National Security Council has heretofore been or shall hereafter be specifically designated for limited or restricted dissemination or distribution, in the interests of the security of the foreign intelligence activities of the United States, by a department or agency of the United States which is expressly authorized by statute or by the President to engage in intelligence activities for the United States; and

(B) The term "contractor of the United States Government" includes persons having contracts with the United States, or with any department or agency thereof, or with any corporation in which the United States or any department or agency thereof has a proprietary interest; and includes subcontractors at whatever level.

(4) No person, merely because he has received Designated Intelligence information without

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authority, or has failed to make such disclosure known to some judge or other person in civil or military authority under the United States (unless such receipt was in the course of a relationship with the United States described in paragraph (1)), shall be subject to prosecution under section 2 of Title 18, United States Code, for aiding, abetting, counseling, commanding, inducing, procuring, or causing the commission of an offense under this subsection; or to prosecution under section 3 of Title 18, United States Code, as an accessory after the fact to an offense under this subsection; or to prosecution under section 4 of Title 18, United States Code, for misprision of an offense under this subsection; or to prosecution for conspiracy to commit an offense under this subsection; provided, however, that the immunity conferred by this paragraph does not preclude the indictment or conviction for conspiracy of any person who is subject to prosecution for having himself committed, or commanded, induced, or procured the commission of, an offense under this subsection.

(5) No prosecution shall be instituted under this subsection unless, prior to the return of the indictment or the filing of the information, the Attorney General and the Director of Central

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Intelligence jointly certify to the court that at the time of the offense --

(A) the Designated Intelligence Information in question was lawfully designated for limited or restricted dissemination or distribution within the meaning of paragraph (3) of this subsection;

(B) such information had not been placed in the public domain by the United States Government; and

(C) there existed a review procedure through which a person in possession of the information could obtain review, by the department or agency which designated the information for limited or restricted discrimination or retribution, of the necessity of continuing such designation in the interests of the security of the foreign intelligence activities of the United States.

(6) It is an affirmative defense to a prosecution or civil action under this subsection that --

(A) the information was communicated only to a regularly constituted committee of either House of Congress, or of both Houses jointly or

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to a regularly constituted subcommittee thereof, pursuant to lawful demand; or

(B) the person communicating the information did not know or have reason to know that the information was Designated Intelligence Information.

(7) Whenever in the judgment of the Director of Central Intelligence any person is about to engage in any act or practice which will constitute a violation of this subsection (whether or not such a person could be subjected to prosecution under this subsection), the Attorney General, on behalf of the United States, may make application to the appropriate court for an order enjoining such act or practice; and upon a showing that such person is about to engage in any such act or practice, a permanent or temporary injunction, restraining order, or other order may be granted restraining or prohibiting such act or practice.

(8) Any person who shall commit or participate in the commission of any offense under this subsection, whether or not such person is liable to criminal prosecution therefor, shall be liable to any person injured as a result of such disclosure, or to his

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sustained with his costs and expenses of suit and a reasonable attorney's fee; and punitive damages may be awarded. It shall not be a defense to a civil action under this paragraph that such injury was immediately caused by some person or persons other than the defendant, if injury to the plaintiff was reasonably foreseeable as a result of such disclosure; nor shall the plaintiff be deemed to have assumed the risk of such injury by reason of his having any relationship to the United States or any department or agency thereof described in paragraph (1) of this subsection. The United States district courts shall have exclusive original jurisdiction of actions brought under this paragraph. Any such action must be commenced within seven years of the time the plaintiff knew, or should with reasonable diligence have known, of the participation of the defendant in the offense.

(9) In any judicial proceeding under this subsection, the question whether the information alleged to have been communicated in violation of this subsection was validly designated for limited or restricted dissemination or distribution within the meaning of paragraph (3) of this subsection shall be a question of law. In determining the question of such validity, the court may review, in camera, the information

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in question and any additional relevant information which may be offered by the parties. The court shall not hold such designation invalid unless it shall determine that such designation was arbitrary and capricious. In any such in camera review, the court may, in its discretion, require the presence of all parties or their attorneys and production of a record of the proceedings, and shall at the close of any such in camera review, enter on the record an order pursuant to its findings and determination.

(10) In any criminal or civil litigation under this subsection, any portion of the record containing Designated Intelligence Information which shall not have been finally determined not to have been validly so designated shall be subject to such regulations concerning storage and access as shall be promulgated by the Director of Central Intelligence, in consultation with the Board of the Federal Judicial Center.

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Approved For Release 2002/08/06 : CIA-RDP79M00467A000200160019-3

TRANSMITTAL SLIP		DATE	Executive Registry 71-778
TO:			
ROOM NO.			
REMARKS:			
FROM: <i>sc/bey</i> FEB 1976			
ROOM NO.	BUILDING	EXTENSION	

FORM NO. 241
1 FEB 55REPLACES FORM 36-8
WHICH MAY BE USED.

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